

106TH CONGRESS
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S. 2412

[Report No. 106-]

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2000

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JUNE —, 2000

Reported by Mr. McCAIN without amendment

A BILL

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Transportation Safety Board Amendments Act
6 of 2000”.

1 (b) REFERENCES.—Except as otherwise specifically
2 provided, whenever in this Act an amendment or repeal
3 is expressed in terms of an amendment to, or repeal of,
4 a section or other provision of law, the reference shall be
5 considered to be made to a section or other provision of
6 title 49, United States Code.

7 **SEC. 2. DEFINITIONS.**

8 Section 1101 is amended to read as follows:

9 **“§ 1101. Definitions**

10 “Section 2101(17a) of title 46 and section 40102(a)
11 of this title apply to this chapter. In this chapter, the term
12 ‘accident’ includes damage to or destruction of vehicles in
13 surface or air transportation or pipelines, regardless of
14 whether the initiating event is accidental or otherwise.”.

15 **SEC. 3. AUTHORITY TO ENTER INTO AGREEMENTS.**

16 (a) IN GENERAL.—Section 1113 (b)(1)(I) is amend-
17 ed to read as follows:

18 “(I) negotiate and enter into agreements
19 with individuals and private entities and depart-
20 ments, agencies, and instrumentalities of the
21 Government, State and local governments, and
22 governments of foreign countries for the provi-
23 sion of facilities, accident-related services or
24 training in accident investigation techniques,
25 and require that such entities provide appro-

1 priate consideration for the reasonable costs of
2 any facilities, services, or training provided by
3 the Board.”.

4 (b) DEPOSIT OF AMOUNTS.—

5 (1) Section 1113 (b)(2) is amended—

6 (A) by inserting “as offsetting collections”
7 after “to be credited”; and

8 (B) by adding after “Board.” the fol-
9 lowing: “The Board shall maintain an annual
10 record of collections received under paragraph
11 (1)(I) of this subsection.”.

12 (2) Section 1114 (a) is amended—

13 (A) by inserting “(1)” before “Except”;
14 and

15 (B) by adding at the end thereof the fol-
16 lowing:

17 “(2) The Board shall deposit in the Treasury
18 amounts received under paragraph (1) to be credited
19 to the appropriation of the Board as offsetting col-
20 lections.”.

21 (3) Section 1115 (d) is amended by striking “of
22 the ‘National Transportation Safety Board, Salaries
23 and Expenses’ ” and inserting “of the Board”.

1 **SEC. 4. OVERTIME PAY.**

2 Section 1113 is amended by adding at the end the
3 following:

4 “(g) OVERTIME PAY.—

5 “(1) IN GENERAL.—Subject to the require-
6 ments of this section and notwithstanding para-
7 graphs (1) and (2) of section 5542(a) of title 5, for
8 an employee of the Board whose basic pay is at a
9 rate which equals or exceeds the minimum rate of
10 basic pay for GS-10 of the General Schedule, the
11 Board may establish an overtime hourly rate of pay
12 for the employee with respect to work performed at
13 the scene of an accident (including travel to or from
14 the scene) and other work that is critical to an acci-
15 dent investigation in an amount equal to one and
16 one-half times the hourly rate of basic pay of the
17 employee. All of such amount shall be considered to
18 be premium pay.

19 “(2) LIMITATION ON OVERTIME PAY TO AN EM-
20 PLOYEE.—An employee of the Board may not re-
21 ceive overtime pay under paragraph (1), for work
22 performed in a calendar year, in an amount that ex-
23 ceeds 15 percent of the annual rate of basic pay of
24 the employee for such calendar year.

25 “(3) BASIC PAY DEFINED.—In this subsection,
26 the term ‘basic pay’ includes any applicable locality-

1 based comparability payment under section 5304 of
2 title 5 (or similar provision of law) and any special
3 rate of pay under section 5305 of title 5 (or similar
4 provision of law).

5 “(4) ANNUAL REPORT.—Not later than Janu-
6 ary 31, 2001, and annually thereafter, the Board
7 shall transmit to the Senate Committee on Com-
8 merce, Science and Transportation and the House
9 Transportation and Infrastructure a report identi-
10 fying the total amount of overtime payments made
11 under this subsection in the preceding fiscal year.”.

12 **SEC. 5. RECORDERS.**

13 (a) COCKPIT VIDEO RECORDINGS.—Section 1114(c)
14 is amended—

15 (1) by striking “VOICE” in the subsection head-
16 ing;

17 (2) by striking “cockpit voice recorder” in para-
18 graphs (1) and (2) and inserting “cockpit voice or
19 video recorder”; and

20 (3) by inserting “or any written depiction of
21 visual information” after “transcript” in the second
22 sentence of paragraph (1).

23 (b) SURFACE VEHICLE RECORDINGS AND TRAN-
24 SCRIPTS.—

25 (1) IN GENERAL.—Section 1114 is amended—

1 (A) by redesignating subsections (d) and
2 (e) as subsections (e) and (f), respectively; and
3 (B) by inserting after subsection (e) the
4 following:

5 “(d) SURFACE VEHICLE RECORDINGS AND TRAN-
6 SCRIPTS.—

7 “(1) CONFIDENTIALITY OF RECORDINGS.—The
8 Board may not disclose publicly any part of a sur-
9 face vehicle voice or video recorder recording or
10 transcript of oral communications by or among driv-
11 ers, train employees, or other operating employees
12 responsible for the movement and direction of the
13 vehicle or vessel, or between such operating employ-
14 ees and company communication centers, related to
15 an accident investigated by the Board. However, the
16 Board shall make public any part of a transcript or
17 any written depiction of visual information that the
18 Board decides is relevant to the accident—

19 “(A) if the Board holds a public hearing
20 on the accident, at the time of the hearing; or

21 “(B) if the Board does not hold a public
22 hearing, at the time a majority of the other fac-
23 tual reports on the accident are placed in the
24 public docket.

1 “(2) REFERENCES TO INFORMATION IN MAKING
2 SAFETY RECOMMENDATIONS.—This subsection does
3 not prevent the Board from referring at any time to
4 voice or video recorder information in making safety
5 recommendations.”.

6 (2) CONFORMING AMENDMENT.—The first sen-
7 tence of section 1114(a) is amended by striking
8 “and (e)” and inserting “(d), and (f)”.

9 (c) DISCOVERY AND USE OF COCKPIT AND SURFACE
10 VEHICLE RECORDINGS AND TRANSCRIPTS.—

11 (1) IN GENERAL.—Section 1154 is amended—

12 (A) by striking the section heading and in-
13 serting the following:

14 **“§ 1154. Discovery and use of cockpit and surface ve-**
15 **hicle recordings and transcripts;**

16 (B) by striking “cockpit voice recorder”
17 each place it appears in subsection (a) and in-
18 serting “cockpit or surface vehicle recorder”;

19 (C) by striking “section 1114(e)” each
20 place it appears in subsection (a) and inserting
21 “section 1114(c) or 1114(d)”;

22 (D) by adding at the end the following:

23 “(6) In this subsection:

24 “(A) RECORDER.—The term ‘recorder’
25 means a voice or video recorder.

1 “(B) TRANSCRIPT.—The term ‘transcript’
2 includes any written depiction of visual infor-
3 mation obtained from a video recorder.”.

4 (2) CONFORMING AMENDMENT.—The chapter
5 analysis for chapter 11 is amended by striking the
6 item relating to section 1154 and inserting the fol-
7 lowing:

“1154. Discovery and use of cockpit and surface vehicle recordings and tran-
scripts.”.

8 **SEC. 6. PRIORITY OF INVESTIGATIONS.**

9 (a) IN GENERAL.—Section 1131(a)(2) is amended—
10 (1) by striking “(2) An investigation” and in-
11 serting

12 “(2)(A) Subject to the requirements of this
13 paragraph, an investigation”; and

14 (2) by adding at the end the following:

15 “(B) If the Attorney General, in consulta-
16 tion with the Chairman of the Board, deter-
17 mines and notifies the Board that cir-
18 cumstances reasonably indicate that the acci-
19 dent may have been caused by an intentional
20 criminal act, the Board shall relinquish inves-
21 tigative priority to the Federal Bureau of Inves-
22 tigation. The relinquishment of investigative
23 priority by the Board shall not otherwise affect

1 the authority of the Board to continue its inves-
2 tigation under this section.

3 “(C) If a Federal law enforcement agency
4 suspects and notified the Board that an acci-
5 dent being investigated by the Board under
6 subparagraph (A), (B), (C), or (D) of para-
7 graph (1) may have been caused by an inten-
8 tional criminal act, the Board, in consultation
9 with the law enforcement agency, shall take
10 necessary actions to ensure that evidence of the
11 criminal act is preserved.”.

12 (b) REVISION OF 1977 AGREEMENT.—Not later than
13 1 year the date of the enactment of this Act, the National
14 Transportation Safety Board and the Federal Bureau of
15 Investigation shall revise their 1977 agreement on the in-
16 vestigation of accidents to take into account the amend-
17 ments made by this Act.

18 **SEC. 7. PUBLIC AIRCRAFT INVESTIGATION CLARIFICATION.**

19 Section 1131(d) is amended by striking “1134(b)(2)”
20 and inserting “1134(a), (b), (d), and (f)”.

21 **SEC. 8. MEMORANDUM OF UNDERSTANDING.**

22 Not later than 1 year after the date of the enactment
23 of this Act, the National Transportation Safety Board and
24 the United States Coast Guard shall revise their Memo-

1 random of Understanding governing major marine
2 accidents—

3 (1) to redefine or clarify the standards used to
4 determine when the National Transportation Safety
5 Board will lead an investigation; and

6 (2) to develop new standards to determine when
7 a major marine accident involves significant safety
8 issues relating to Coast Guard safety functions.

9 **SEC. 9. TRAVEL BUDGETS.**

10 The Chairman of the National Transportation Safety
11 Board shall establish annual fiscal year budgets for non-
12 accident-related travel expenditures for Board members,
13 and submit to the Senate Committee on Commerce,
14 Science, and Transportation and to the House of Rep-
15 resentatives Committee on Transportation and Infrastruc-
16 ture an annual report detailing the non-accident-related
17 travel of each Board member. The report shall include sep-
18 arate accounting for foreign and domestic travel, including
19 any personnel or other expenses associated with that trav-
20 el.

21 **SEC. 10. CHIEF FINANCIAL OFFICER.**

22 Section 1111 is amended—

23 (1) by redesignating subsection (h) as sub-
24 section (i); and

1 (2) by inserting after subsection (g) the fol-
2 lowing:

3 “(h) CHIEF FINANCIAL OFFICER.—The Chairman
4 shall designate an officer or employee of the Board as the
5 Chief Financial Officer. The Chief Financial Officer
6 shall—

7 “(1) report directly to the Chairman on finan-
8 cial management and budget execution;

9 “(2) direct, manage, and provide policy guid-
10 ance and oversight on financial management and
11 property and inventory control; and

12 “(3) review the fees, rents, and other charges
13 imposed by the Board for services and things of
14 value it provides, and suggest appropriate revisions
15 to those charges to reflect costs incurred by the
16 Board in providing those services and things of
17 value.”.

18 **SEC. 11. IMPROVED AUDIT PROCEDURES.**

19 The National Transportation Safety Board shall de-
20 velop and implement comprehensive internal audit controls
21 for its financial programs based on the findings and rec-
22 ommendations of the private sector audit firm contract en-
23 tered into by the Board in March, 2000. The improved
24 internal audit controls shall, at a minimum, address Board
25 asset management systems, including systems for account-

1 ing management, debt collection, travel, and property and
2 inventory management and control.

3 **SEC. 12. AUTHORITY OF THE INSPECTOR GENERAL.**

4 (a) IN GENERAL.—Subchapter III of chapter 11 of
5 subtitle II is amended by adding at the end the following:

6 **“§ 1137. Authority of the Inspector General**

7 “(a) IN GENERAL.—The Inspector General of the
8 Department of Transportation, in accordance with the
9 mission of the Inspector General to prevent and detect
10 fraud and abuse, shall have authority to review only the
11 financial management and business operations of the Na-
12 tional Transportation Safety Board, including internal ac-
13 counting and administrative control systems, to determine
14 compliance with applicable Federal laws, rules, and regu-
15 lations.

16 “(b) DUTIES.—In carrying out this section, the In-
17 spector General shall—

18 “(1) keep the Chairman of the Board and Con-
19 gress fully and currently informed about problems
20 relating to administration of the internal accounting
21 and administrative control systems of the Board;

22 “(2) issue findings and recommendations for
23 actions to address such problems; and

1 “(3) report periodically to Congress on any
2 progress made in implementing actions to address
3 such problems.

4 “(c) ACCESS TO INFORMATION.—In carrying out this
5 section, the Inspector General may exercise authorities
6 granted to the Inspector General under subsections (a)
7 and (b) of section 6 of the Inspector General Act of 1978
8 (5 U.S.C. App.).

9 “(d) REIMBURSEMENT.—The Inspector General shall
10 be reimbursed by the Board for the costs associated with
11 carrying out activities under this section.”.

12 (b) CONFORMING AMENDMENT.—The subchapter
13 analysis for such subchapter is amended by adding at the
14 end the following:

“1137. Authority of the Inspector General.”.

15 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

16 Section 1118 is amended to read as follows:

17 **“§ 1118. Authorization of appropriations**

18 “(a) IN GENERAL.—There are authorized to be ap-
19 propriated for the purposes of this chapter \$57,000,000
20 for fiscal year 2000, \$65,000,000 for fiscal year 2001,
21 \$72,000,000 for fiscal year 2002, and \$79,000,000 for fis-
22 cal year 2003, such sums to remain available until ex-
23 pended.

24 “(b) EMERGENCY FUND.—The Board has an emer-
25 gency fund of \$2,000,000 available for necessary expenses

1 of the Board, not otherwise provided for, for accident in-
2 vestigations. Amounts equal to the amounts expended an-
3 nually out of the fund are authorized to be appropriated
4 to the emergency fund.”.

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